IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

WP(C).No. 32108 of 2006(V)

AGAINST THE ORDER IN IA 1265/2006 IN
OS.164/2006 of MUNIFF COURT, DEVIKULAM

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PETITIONER:

M.PREMANAND, S/O.LATE MANIAPPAN NADAR,
18 ROOMS LINES, MUNNAR, K.D.H.VILLAGE,
DEVIKULAM TALUK.

BY ADV. SRI.N.K.KARNIS

RESPONDENTS:

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1. MERCY, AGED 40 YEARS,
W/O.LATE APPACHAN, RESIDING AT KUZHIYAMPALA
HOUSE, MUTTUKADU KARA, BYSONVALLEY P.O.,
IDUKKI DISTRICT.

2. LAIJU KURIAKOSE, S/O.KURIAKOSE,
KOCHIYIL HOUSE, MAVADY P.O., KALKOONTHAL VILLAGE,
IDUKKI DISTRICT.

3. THOMAS KUTTY, S/O.ULAHANNAN,
KUZHIYAMPALA HOUSE, 20 ACRE KARA,
POTTANKADU P.O., BISON VALLEY VILLAGE,
IDUKKI DISTRICT.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.32108 OF 2006

Dated 4th December 2006

JUDGMENT

Petitioner is plaintiff in O.S.164/2006 on the file of Munsiff court, Devikulam. In the suit petitioner filed Ext.P2 application (I.A.1265/2006) under Order XXXIX Rule 1 of Code of Civil Procedure seeking an order of temporary injunction restraining respondents from trespassing into the plaint schedule properties or committing mischief or waste therein or from obstructing the construction carried out in the plaint schedule property. Under Ext.P3, an order of temporary injunction was granted. But in the order learned Munsiff directed that petitioner shall also not carry out any work in the plaint schedule property. Petitioner filed Ext.P4 application to review the said order by deleting the part of the order restraining him from carry out construction work. Learned Munsiff dismissed that application. This petition is filed under Article 227 of Constitution of India to set aside the direction in

Ext.P3 as against petitioner or in the alternative to direct learned Munsiff to dispose of I.A.1265/06 on merit.

2. When ex-parte order of temporary injunction was granted, realising that by the order petitioner may carry out construction, learned Munsiff directed petitioner not to carry out any construction in the property till disposal of that application. It cannot be said that direction was illegal. Extra ordinary jurisdiction of this court cannot be invoked to set aside that direction. Learned Munsiff is directed to dispose I.A.1265/2006, as expeditiously as possible and in any event within 30 days from the date of receipt of copy of this judgment.

Writ petition is disposed of accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.